

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

Phillips, et al.,

*Plaintiffs,*

v.

The City of New York, et al.,

*Defendants.*

21-cv-8149 (ALC) (SLC)

**DECLARATION OF  
J. REMY GREEN**

I, Remy Green, being duly sworn, depose and say:

1. I am a partner at Cohen&Green P.L.L.C., co-counsel for Plaintiffs in the putative class action above.

2. I make this declaration in support of Plaintiffs' motion to strike Defendants' motion to dismiss (in the manner set out in the notice of motion), in order to (1) place certain records in my control in record and (2) to provide certain information to the Court.

**Exhibits**

3. Attached as **Exhibit 1** is a true and correct copy of the internal email thread among City officials published in Chris Gelardi, *Rikers Staff Tampered With Records, Hiding Intake Rule Violations, Documents Show*, N.Y. FOCUS (Oct. 17, 2022).

4. Attached as **Exhibit 2** is a true and correct copy of Docket Number 27 from *Barnett v. Mount Vernon Police Department*, 10-cv-3899 (S.D.N.Y. 2011).

5. Attached as **Exhibit 3** is a true and correct copy of Docket Number 26 from *Barnett v. Mount Vernon Police Department*, 10-cv-3899 (S.D.N.Y. 2011).

## The Phillips Bench Warrant and Fonts

6. Additionally, below, I set out the issues that lead me to believe that Zuckerman Ex. A — which Defendants have said is “exact[ly]” the 1989 bench warrant Mr. Phillips was arrested on — is actually not *quite* that.

7. The document has several parts, all in different fonts.

8. The top of the document has some pedigree information, with a handwritten mark (that is unaccounted for in Defendants’ description):

Bench Warrant				
CRIMINAL COURT OF THE CITY OF NEW YORK				
Name of Defendant:			Date of issuance of the warrant: 06/05/1989	
PHILLIPS, PAUL			Offense Charged:	
			PL12005(02)F	
Part:	Return Part:	County:	Docket No:	OCA No:
AP17	AP17	NEW YORK	9N046776 ✓	V2017100365

9. The middle has the body of a warrant over the Seal of the State of New York:

<p>IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:</p> <p>TO ANY POLICE OFFICER WHOSE GEOGRAPHICAL AREA OF EMPLOYMENT EMBRACES EITHER THE PLACE WHERE THE OFFENSE CHARGED WAS ALLEGEDLY COMMITTED OR THE LOCALITY OF THE COURT BY WHICH THIS WARRANT IS ISSUED.</p> <p>A CRIMINAL ACTION HAVING BEEN PREVIOUSLY COMMENCED AGAINST THE ABOVE-NAMED DEFENDANT AND NOT HAVING BEEN TERMINATED BY A FINAL DISPOSITION, AND THE COURT REQUIRING THE PERSONAL APPEARANCE OF THE DEFENDANT IN THE PENDING CRIMINAL ACTION FOR A PURPOSE OTHER THAN INITIAL ARRAIGNMENT IN THE ACTION HAVING ORDERED THE ISSUANCE OF A BENCH WARRANT</p> <p>THE DEFENDANT HAVING BEEN CONVICTED OF</p> <p>AND HAVING BEEN SENTENCED TO -</p> <p>NOW THEREFORE, YOU ARE DIRECTED TO TAKE INTO CUSTODY THE ABOVE-NAMED DEFENDANT WHO IS PARTICULARLY DESCRIBED BELOW AND FOLLOWING HIS ARREST YOU MUST WITHOUT UNNECESSARY DELAY BRING THE DEFENDANT BEFORE THIS COURT. THE DELEGATION OF THIS WARRANT IS AUTHORIZED AS PRESCRIBED IN CPL 530.70 (3) (4) (5).</p> <p>BY ORDER OF THE COURT</p>
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10. And the bottom has a section called “Defendant Information” with a blank image that is slightly mismatched in size from the information box, with what appear to be hand redactions:

BY ORDER OF THE COURT

Justin A. Barry, CHIEF CLERK  
CRIMINAL COURT, CITY OF NEW YORK

DEFENDANT INFORMATION			
DOB:	[REDACTED]	Age:	56
Sex:	MALE	Ht:	6'0"
Weight:	190	Eyes:	HAZEL
ADDRESS	[REDACTED]		
Opr Lic #:		SSN:	[REDACTED]

ARREST INFORMATION			
A/O Name:	VARGA	Shield #:	31743
Arrest ID:	M89044166	Date:	05/10/1989
Dept/Agency:	NY0303000	NYSID:	04526665L
		Tax Reg #:	894413

No Image Available

11. Based on my review, it appears most likely that the middle of the document is the actual warrant, while the top and bottom portions are documents added more recently by NYPD’s computer system — and not actually part of the 1989 warrant at all.

12. First, the font that Mr. Phillips’s name appears in at the top is not a font that was in commercial use in 1989.<sup>1</sup>

13. The font is Arial Bold. I know this both because I am familiar with the font and because I have tested it.

14. Here is Mr. Phillips’s name, as it appears at the top, with a side-by-side comparison with his name overlayed with TrueType Arial Bold (original text in black; added text in red):

<sup>1</sup> This version of the history is somewhat abbreviated, and some complexity is lost. I recognize I am a bit of a font nerd, and am attempting to make this digestible to someone without that interest.

Name of Defendant:		Name of Defendant:	
<b>PHILLIPS, PAUL</b>		<b>PHILLIPS, PAUL</b>	
Part:	Return Part:	Part:	Return Part:
AP17	AP17	AP17	AP17

15. That is, Arial Bold matches the text very nearly pixel for pixel.

16. By contrast, other standard sans serif fonts are show obvious differences:

**Bahnschrift:**

**Calibri:**

**“Sans Serif”:**

While Bahnschrift (another intentional Helvetica alternative, like Arial, as discussed below) gets very close, even that closeness is visibly different. For Arial, the text is all but a pixel perfect match.

17. So, it is clear that the top portion of the document was generated with Arial Bold.

18. Arial is a sans serif font initially drawn in 1982, based on Helvetica — and (among other things) designed so that each character width matched Helvetica, and documents using Helvetica could be printed in Arial without changing spacing, line-breaks, and so on. *See, e.g., Greg Hitchcock, Thirty Years of Monotype's Times New Roman and Arial on Windows*, LINKEDIN (Jul. 18, 2020).<sup>2</sup>

19. However, that initial version is not the Arial that exists today — nor did that initial version, which was created at Monotype, achieve significant commercial use.

20. Instead, Arial “was effectively redrawn towards the end of the [80’s] to coincide with the emergence of the desktop PC sparked off by the Mac.” *Twenty/20*, MACUSER (Jul. 8, 2005).<sup>3</sup>

21. It was not until 1990 that the “TrueType” (a technology that allows scaling of font sizes) version of Arial — the version that is in common use — was developed at Monotype.

22. Arial ultimately achieved market success in 1992 because it was included in Windows 3.1. *See, e.g., Arial font family*, MICROSOFT.<sup>4</sup>

23. Arial was one of the fonts in the Microsoft TrueType Font Pack that shipped with Windows 3.1 — and critically, it was the **default**. Thus, Arial began

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<sup>2</sup> Available at <https://www.linkedin.com/pulse/thirty-years-monotypes-times-new-roman-arial-windows-greg-hitchcock/>

<sup>3</sup> Available at [https://web.archive.org/web/20090304143518/http://www.monotypefonts.com/PDFs/Twenty20\\_080705.pdf](https://web.archive.org/web/20090304143518/http://www.monotypefonts.com/PDFs/Twenty20_080705.pdf)

<sup>4</sup> Available at <https://learn.microsoft.com/en-us/typography/font-list/arial>

appearing everywhere (sometimes in place of Helvetica — but more often, just because it was the default) *after* 1992. That is, Arial appears everywhere because it was the default in one of the biggest operating system installations in the world.

24. I am not personally aware of when NYPD or the Criminal Courts of the City of New York began using Arial. However, it seems likely that they did so at around the same time everyone else did — when they adopted a Windows 3.1 system. And it is somewhat implausible that the Criminal Courts of the City of New York were licensing a small, little known font — that had only recently been developed — in 1989.

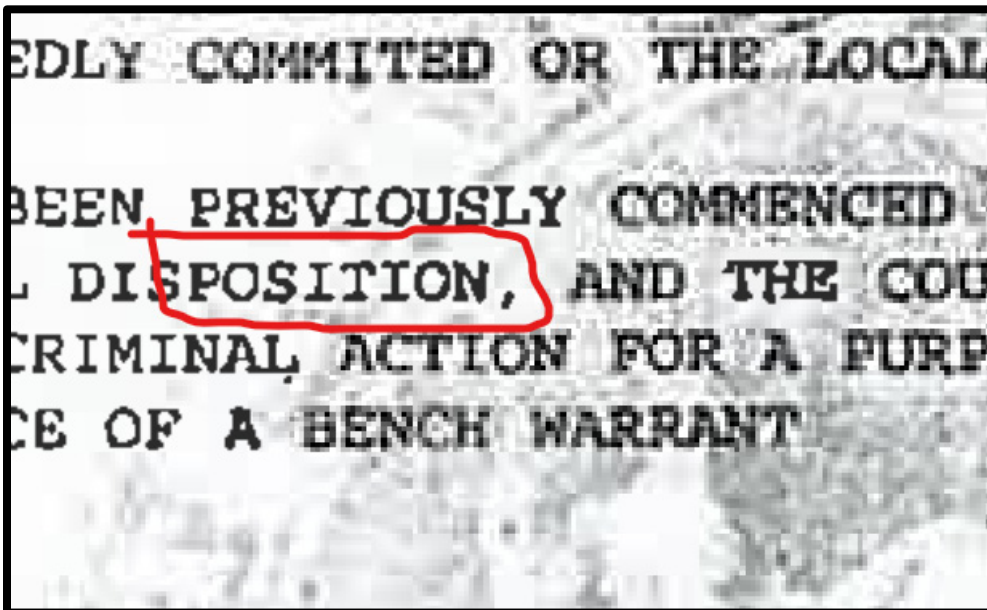
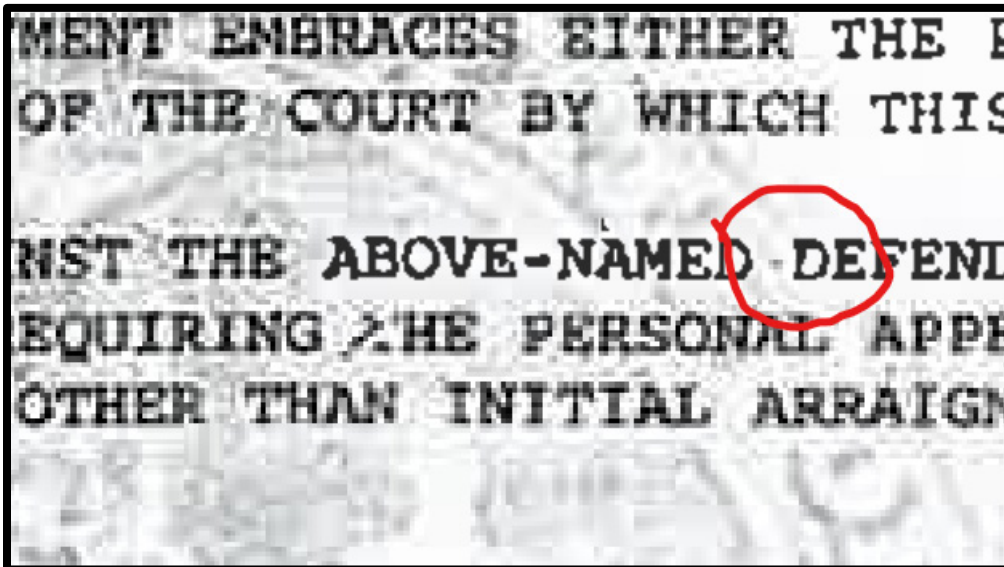
25. Arial remained the default on Windows systems from 1992 until 2007 — and, as the Court likely knows, once a default is adopted, government institutions are typically slower than the private sector to change (indeed, some government organizations are still running on very old versions of Windows).

26. Thus, the most likely way Zuckerman Ex. A was generated is not what the Zuckerman Declaration describes at all. That is, it is *not* a “true and exact copy of a bench warrant” (Dkt. No. 63 ¶ 2) — but instead, a copy of a printout generated much more recently by a *modern* NYPD system, that also prints out certain information on top of the warrant, for (obviously sensible) convenience reasons.

27. Other parts of Zuckerman Ex. A suggest something more is going on with the document, although they are less obvious.

28. The text in the body of the warrant appears to have been scanned, OCR’d, printed, and re-scanned at least once. This can be seen from the fact that

the seal of the State of New York appears to have been — for lack of a better phrase — vacuumed into certain letters, when viewed very closely (red indications added):



29. The spacing of the text, some of the inconsistencies in how it appears, and the whitespace around the text, look to be consistent with using an OCR process that does not have an *exact* match for an original font, and the system substituting a close — but imperfect — match and therefore needing to adjust kerning, spacing, and so on.

30. It looks specifically to me like the original warrant used an older Courier font, and it was adjusted to either Courier Standard (Adobe's courier) or Courier New Bold during the OCR process (before being printed and scanned again).

31. Again, nothing is inherently pernicious about this — but it does show that the document is not *exactly* what Defendants say it is.

32. There are other nuanced font issues that also track the issue with Arial above — but for brevity, I omit those.

I declare, under penalty of perjury, that the statements above are true and correct.

Executed On: April 4, 2023

/s/

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J. Remy Green